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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/829,094	04/20/2004	Shawn Owens	115/516	6014

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EXAMINER

BECKER, DREW E

ART UNIT

PAPER NUMBER

1761

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/829,094	<b>Applicant(s)</b> OWENS, SHAWN	
	<b>Examiner</b> Drew E. Becker	<b>Art Unit</b> 1761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-13 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Allowable Subject Matter***

1. Applicant is advised that the Notice of Allowance mailed April 10, 2006 is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.
2. The indicated allowability of claims 1-5, 7-13, and 15-20 is withdrawn in view of the newly discovered reference(s) to Perkins et al and Jonovic et al. Rejections based on the newly cited reference(s) follow.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 8-13 and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 8 recites "the block of material revolving about an axis". It is not clear whether the block is rotating, or the shredding unit.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-3, 8-10, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Perkins et al [Pat. No. 5,660,341].

Perkins et al teach a method for shredding cheese blocks (column 2, line 59) by rotating a drum about an axis (Figure 9, #51), the drum having a plurality of blades (Figure 9, #56), feeding the cheese block toward the drum in a direction perpendicular to the drum axis (Figure 4, #33), a mechanical arm (Figure 1, #34), and cutting shreds from the block (column 2, line 59).

8. Claims 1-3, 8-10, and 16-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Jonovic et al [Pat. No. 5,673,539].

Jonovic et al teach a method for shredding cheese blocks (abstract) by rotating a drum about an axis (Figure 1, #17), the drum having a plurality of blades (Figure 5, #49), feeding the cheese block toward the drum in a direction perpendicular to the drum axis (Figure 5, #33), a mechanical arm (Figure 5, #36), and cutting shreds from the block (column 4, line 34).

***Claim Rejections - 35 USC § 103***

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9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 4, 11, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jonovic et al as applied above, in view of Akesson [Pat. No. 4,600,159].

Jonovic et al teach the above mentioned concepts as well as the use of pneumatic drive means (column 4, line 5). Jonovic et al does not recite hydraulic means, or a belt.

Akesson teaches a method for shredding cheese blocks utilizing hydraulic and pneumatic drive means interchangeably for a conveyor belt (column 5, lines 7-25). It would have been obvious to one of ordinary skill in the art to incorporate the hydraulic means and belt of Akesson into the invention of Jonovic et al since both are directed to methods for shredding cheese, since Jonovic et al already included pneumatic means (column 4, line 5), since belts were commonly used for conveying cheese blocks as shown by Akesson (Figure 1, #2), and since Akesson teaches that hydraulic drive means were commonly substituted for pneumatic drive means in cheese shredding operations (column 5, lines 7-25).

11. Claims 5, 7, 12, 15, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jonovic et al as applied above, in view of Pankratz et al [Pat. No. 4,111,087].

Jonovic et al teach the above mentioned concepts. Jonovic et al do not recite rollers, or stacking a plurality of ribbons. Pankratz et al teach a method for processing cheese by

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conveying stacks, or blocks, of cheese ribbons on rollers (Figure 1). It would have been obvious to one of ordinary skill in the art to incorporate the rollers and stacks of Pankratz et al into the invention of Jonovic et al since both are directed to methods of processing cheese, since Jonovic et al already slid cheese blocks across a surface to the cutting drum (Figure 5, #33), since the rollers of Pankratz et al would have reduced the chance of the cheese blocks becoming stuck or jammed, and since the stacked ribbons of Pankratz et al would have provided easier shredding and less stress on the shredding drum of Jonovic et al.

12. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jonovic et al, in view of Pankratz et al, as applied above, and further in view of Smith [Pat. No. 4,735,817].

Jonovic et al and Pankratz et al teach the above mentioned concepts. Jonovic et al and Pankratz et al do not recite forming a continuous sheet on a belt, and cutting the sheet along its width to form the ribbons. Smith teaches a method for processing cheese by forming a continuous sheet on a belt, and cutting the sheet along its width to form ribbons (Figure 1, #13-14 & 29). It would have been obvious to one of ordinary skill in the art to incorporate the forming and stacking features of Smith into the invention of Jonovic et al, in view of Pankratz et al, since all are directed to methods of processing cheese, since Pankratz et al already included stacked ribbons of cheese (Figure 1, #4), and since stacked cheese ribbons were commonly made by forming and stacking as shown by Smith (Figure 1).

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13. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jonovic et al as applied above, in view of Keel [Pat. No. 6,652,899].

Jonovic et al teach the above mentioned concepts. Jonovic et al do not recite extruding the cheese blocks. Keel teaches a method for forming cheese blocks by extrusion (Figure 1, #30). It would have been obvious to one of ordinary skill in the art to incorporate the extrusion of Keel into the invention of Jonovic et al since both are directed to methods of processing cheese, since Jonovic et al already included cheese blocks but simply did not describe how they were made (Figure 5, #33), and since Keel teaches that cheese blocks were commonly made by extrusion (Figure 1, #30).


14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bigelow [Pat. No. 5,364,037], Orlando [Pat. No. 2,481,336], Berarducci [Pat. No. 2,128,792], Gaetano [Pat. No. 1,495,386], Warwick [Pat. No. 3,900,574], Liebermann [Pat. No. 5,112,635], Hedrington [Pat. No. 5,680,997], Arnold [Pat. No. 5,163,628], Bloomquist [Pat. No. 4,454,995], Engebretsen [Pat. No. 4,227,656], Holcomb et al [Pat. No. 6,315,224], Prommel et al [Pat. No. 6,766,972], So [Pat. No. 6,915,973], So [US2004/0079820], and Takayama et al [US2005/0082401] teach methods of shredding and processing foods.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**DREW BECKER**  
**PRIMARY EXAMINER**  
4-26-06